

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED

August 9, 2011

In the Matter of W. A. SAMSON, Minor.

No. 302770

St. Clair Circuit Court

Family Division

LC No. 09-000030 NA

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Before: CAVANAGH, P.J., and WILDER and OWENS, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We affirm.

In termination proceedings, this Court must defer to the trial court's factual findings if those findings do not constitute clear error. MCR 3.977(K). Both the trial court's decision that a ground for termination has been proven by clear and convincing evidence and the best interests determination are reviewed for clear error. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). "A finding is 'clearly erroneous' [if] although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The trial court did not clearly err in finding that the statutory grounds were established by clear and convincing evidence. The conditions leading to adjudication were domestic violence and respondent's anger issues, which could result in possible harm to the minor child. Although respondent had never physically harmed the child, he was dropped to the ground during a domestic altercation between respondent and his paternal grandmother. The case was pending for two years and respondent received several referrals for anger management classes. However, she did not complete an anger management class and had just enrolled and begun to attend one before the termination hearing. Moreover, while the case was pending, respondent was charged with aggravated assault and failed to report this arrest to her foster care worker because she knew it would hurt her chances at reunification. After the first termination hearing, respondent was given additional time to complete the court-ordered requirements. She only began to do so after the current termination petition was filed, months after the trial court gave her additional time. Anger continued to be an issue for respondent, and she did not show that she could rectify this condition. At the time of the termination hearing, the minor child was 28 months old and had been in foster care for over two years. He had begun to show signs of confusion because of the extended time period away from respondent. Therefore, the trial court did not clearly err in finding that the conditions leading to adjudication, respondent's anger and her engagement in

violence with those around her, had not been rectified and were not likely to be rectified within a reasonable time considering the child's age. MCL 712A.19b(3)(c)(i).

Another condition that could have led to adjudication was respondent's marijuana use. Respondent received notice of this condition in the petition for termination that was filed before the first termination hearing, and she was given over six months to rectify the condition. Although respondent completed a substance abuse program and tested negative for marijuana on the screens she submitted, respondent missed many screens in the period after the trial court gave her additional time to rectify this condition. Respondent was aware that missed screens were considered positive. Therefore, the trial court did not clearly err in finding that respondent received notice of the other condition, a hearing, and adequate time to rectify the condition. She did not do so, and there was no indication that she would be able to do so within a reasonable time considering the child's age where she had not done so in the months between the termination hearings. MCL 712A.19b(3)(c)(ii).

The trial court did not clearly err in finding respondent had not provided proper care and custody for the minor child and would not be able to do so within a reasonable time. MCL 712A.19b(3)(g). Although respondent had stable housing while the case was pending, the housing was paid for by Section 8 assistance and she still struggled to pay her utility bills. She discontinued attending the JET program and, therefore, her cash assistance ended. She was able to obtain a job at Wendy's three weeks before the termination hearing, but she did not provide verification of her employment to the foster care worker. Respondent did not complete an anger management course despite the fact that she was given several referrals, that anger and domestic violence were what brought the child into care, and that she had been charged criminally with aggravated assault while this case was pending. Further, respondent skipped drug screens necessary to establish that she was not using marijuana. The trial court also did not clearly err in finding that respondent mother could not provide proper care and custody within a reasonable time considering the child's age. Respondent mother had had two years to make progress with these issues and only began to make some progress a few weeks before the termination hearing. Given the amount of time the case was pending, that respondent mother was given additional time after a previous termination hearing, and the child's young age and need for permanency, the trial court did not clearly err in finding that section (g) was established by clear and convincing evidence.

The same evidence regarding respondent's issues with anger management, domestic violence, marijuana use, lack of employment, and inability to pay her expenses establish that there was a reasonable likelihood that the child would be harmed if returned to respondent's home. MCL 712A.19b(3)(j).

The trial court also did not clearly err in its best interests determination. "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). Respondent's last ditch efforts to comply with the court orders came too late. The child had been in foster care for two years of his 28-month life and, although he shared a bond with respondent, visits were confusing for him. Respondent, despite the chances that she was given, did not complete anger management courses, skipped drug screens, and had not progressed to unsupervised visitation because of her failure to submit drug screens. For these

reasons, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Kurtis T. Wilder

/s/ Donald S. Owens